



CANNON BUILDING  
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STATE OF DELAWARE  
**DEPARTMENT OF STATE**  
DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	<b>COUNCIL ON REAL ESTATE APPRAISERS</b>
MEETING DATE AND TIME:	<b>Tuesday, July 16, 2013 at 9:30 a.m.</b>
PLACE:	861 Silver Lake Boulevard, Dover, Delaware <b>Conference Room A</b> , 2nd floor of the Cannon Building
MINUTES APPROVED:	September 17, 2013

**Members Present**

Georgianna Trietley, Chair, Professional Member  
Ronald Mandato, Vice Chair, Professional Member  
Douglas Nickel, Professional Member  
Lynn Baker, Professional Member  
Brad Levering, Professional Member  
Jan Jenkins, Public Banking Member  
Frank Long, Public Member  
Richard Wheeler, Public Member

**Division Staff/Deputy Attorney General**

Kevin Maloney, Deputy Attorney General  
Amanda McAtee, Administrative Specialist II

**Members Absent**

Frank Smith, Public Member

**Public Present**

Earl Loomis  
Doug Sensabaugh  
Beverly Wilson

**Call to Order**

Ms. Trietley called the meeting to order at 9:34 a.m.

**Review and Approval of Minutes**

The Council reviewed the minutes from the June 18, 2013 meeting. Ms. Jenkins made a motion, seconded by Mr. Baker, to approve the minutes as submitted. By unanimous vote, the motion carried.

## **Unfinished Business**

### **Status of Complaints**

19-06-10 – Dismissed by Attorney General's Office Prosecutorial Discretion  
19-04-11 – Dismissed by Attorney General's Office Interest of Justice  
19-05-11 – Dismissed by Attorney General's Office Prosecutorial Discretion  
19-06-11 – Dismissed by Attorney General's Office Interest of Justice  
19-07-11 – Dismissed by Attorney General's Office Moot as the proper license was obtained  
19-15-11 – Dismissed by Attorney General's Office Prosecutorial Discretion  
19-04-12 – Dismissed by the Division  
19-16-12 – Forwarded to Attorney General's Office for Review  
19-16-12 – Dismissed by Attorney General's Office Insufficient Evidence  
Ms. Trietley stated the status of complaints were as listed above.

### **SB 38 Update**

Ms. Trietley stated the Bill had passed the Senate and House. Ms. McAtee stated that they were waiting for the Governor to sign the Bill. She asked the Council to review the Bill and determine if they needed to draft Rules for the AMC portion. The Division has already begun work on adding the CBC forms to the existing applications.

### **Final Board Order for Ted Ganderton**

Ms. McAtee stated that this order was overlooked and it was from his February 19, 2013 Rule to Show Cause hearing in which the Council voted to lift his probation. The Council signed the order for Ted Ganderton.

## **New Business**

### **New Complaints**

None

### **Ratification of Issued Licenses**

Mr. Nickel made a motion, seconded by Mr. Levering, to ratify the list of licenses issued below. The motion carried unanimously.

Joseph Brian O'Donnell, CGRPA

Sung Lee, CGRPA

C. Lynn Robinson, Appraiser Trainee, Supervisor: William Diveley, CRRPA

Larry W. Stark, Temporary Practice Permit, New Castle County

Matthew D. Anderson, Temporary Practice Permit, New Castle County

Eric C. Sullivan, Temporary Practice Permit, New Castle County

Diego Faccio, Appraiser Trainee, Supervisor: John B. Bush, CGRPA

George Peabody, Temporary Practice Permit, Sussex County

Thomas Shields, Temporary Practice Permit, New Castle County

Melissa Baer, Certified Assessor

### **Review of Application for Certified Assessor**

None

### **Review of Application for Examination**

None

### **Review of Application for Re-examination**

None

### **Review of Application for Exemption**

Christopher C. Barrett

Corrine Schleig

Ms. Trietley reviewed the applications for exemption for the Council. Mr. Mandato made a motion, seconded by Mr. Baker, to approve the applications for exemption for Christopher C. Barrett and Corrine Schleig. The motion carried unanimously.

Reciprocity

Anne Bernhardt

Ms. Trietley reviewed the application for reciprocity for the Council. After discussion and review, the Council concluded that Ms. Bernhardt had made a minor mistake in another jurisdiction and that it should not preclude her from licensure. Mr. Nickel made a motion, seconded by Mr. Levering, to approve the application for reciprocity of Anne Bernhardt. The motion carried unanimously.

Review of Hearing Officer Recommendations

Robert K. Ruggles, III

The Council reviewed the hearing officer recommendation for Robert K. Ruggles, III. After discussion, Mr. Nickel made a motion, seconded by Ms. Jenkins, to accept the hearing officer recommendation for Robert K. Ruggles, III. The motion carried unanimously.

Carole Lee Pare'

The Council reviewed the hearing officer recommendation for Carole Lee Pare'. After discussion, Mr. Nickel made a motion, seconded by Ms. Jenkins, to accept the hearing officer recommendation for Carole Lee Pare'. The motion carried by majority, with Mr. Levering opposed.

James R. Turlington

The Council reviewed the hearing officer recommendation for James R. Turlington and Mr. Turlington's correspondence to the Council in response to the recommendation. The Council noted that since the hearing, Mr. Turlington had satisfied the CE requirements of the Order since he submitted a course certificate for 3 CE's in Delaware Law on June 21, 2013. Mr. Nickel made a motion, seconded by Mr. Baker, to accept the hearing officer recommendation for James R. Turlington. The motion carried unanimously.

John Magann

The Council reviewed the hearing officer recommendation for John Magann. After discussion, Mr. Baker made a motion, seconded by Mr. Nickel, to accept the hearing officer recommendation for John Magann. The motion carried by majority, with Mr. Levering opposed.

James J. Dougherty, Jr.

The Council reviewed the hearing officer recommendation for James J. Dougherty, Jr., the correspondence received from Mr. Dougherty's sister Marcella Martin, and the hearing officer's supplemental recommendation (amended recommendation). Ms. McAtee stated she had recently spoken to Ms. Martin and was informed that Mr. Dougherty was currently in a nursing home facility and was on a ventilator. The doctors did not believe that he will be taken off the ventilator or return home. In light of this information Ms. Martin requested that the Council place his license on an inactive status. Ms. McAtee stated that Mr. Dougherty would have to present CE documentation, including documentation for the conducted audit, to return his license to an active status should if by some miracle he ever recovered from his grave condition. After discussion, Mr. Baker made a motion, seconded by Mr. Nickel, to accept the amended hearing officer recommendation; to not issue discipline on Mr. Dougherty's license and to direct Division staff to assist in his sister's wishes to put his license on an inactive status. The motion carried unanimously.

Ms. McAtee stated that she would grant the Ms. Martin's request to place the license on an inactive status.

#### Review and Deliberation of Consent Agreements

##### Cory J. Burd 19-05-12

The Council reviewed the consent agreement for Cory J. Burd. After discussion, Mr. Mandato made a motion, seconded by Mr. Nickel, to accept the consent agreement for Cory Burd. The motion carried by majority, with Mr. Levering opposed.

Mr. Mandato stated that in Mr. Burd's case a complaint should have been filed against the supervisor as well since USPAP standards hold the supervisor accountable as well.

#### Approval of Continuing Education Activities

After review, Mr. Mandato made a motion, seconded by Mr. Baker, to approve the continuing education activities in the attached listing. The motion carried unanimously.

#### Board Order Compliance

##### Phillip Randazzo Jr.

Ms. McAtee stated that at the last meeting the Council deliberated and voted on a hearing officer recommendation for Mr. Randazzo. Since the last meeting, the order had been sent to Mr. Randazzo. Mr. Randazzo had submitted evidence of his completion of the National USPAP Update on May 31, 2013 in a live setting. Ms. McAtee stated that Mr. Randazzo was now in compliance with his Board Order.

##### Kelly Leaberry

Ms. McAtee stated that Kelly Leaberry was issued her final Board Order on June 18, 2013. Since the issuance of her Board Order Ms. Leaberry had recently complied with paragraph one of the Board order in that she was to submit her appraisal logs for January 1, 2013 through May 21, 2013 within fifteen days of the date of the Order. Ms. McAtee stated that she received Ms. Leaberry's logs via email on June 3, 2013. The Council requested Ms. McAtee contact Ms. Leaberry to request two sample reports from her logs that were submitted on June 3, 2013 be sent to the Council Liaison (Ms. McAtee) on or by August 1, 2013. Ms. McAtee stated that she would contact Ms. Leaberry with the request.

#### Correspondence from R. Doug Sensabaugh

Mr. Sensabaugh was present at the meeting and addressed the Council with the questions from his recent correspondence. Mr. Sensabaugh questioned if the assessor certification fee of \$134 would cover a one or two year period. Ms. McAtee stated that it was a biannual fee and that licensed would expire on October 31<sup>st</sup> of odd years. The assessor licenses that have been issued will expire on October 31, 2015 since they have been issued during the licensing "push" period.

Mr. Sensabaugh questioned if the Council would accept continuing education (CE) courses offered by the Maryland Assessors Association. Ms. Trietley stated that the CE courses would need to be submitted for approval by the Council either by the course provider or by a licensee and the CE approval application was online.

Mr. Sensabaugh questioned if the Council would reciprocate with other states with CE courses and licenses. Mr. Nickel stated that the CE would need to be submitted to the Delaware Council for approval and that reciprocation of licenses was a different issue.

Mr. Maloney read section 4019(e) of the Statute for the Council:

§ 4019(e) The Council on Real Estate Appraisers shall develop standards in cooperation with the Delaware Association of Counties and the Executive Director of the League of Local Governments or his or her designee for licensing and training of assessors in order for municipal and county assessment departments to be in compliance within 3 years of the development and adoption of said standards.

Mr. Maloney stated that according section 4019(e) of the Statute the Council could develop standards for assessors, such as allowing reciprocity. Ms. McAtee stated that addressing the Rules and Regulations governing assessors was already on the agenda so the Council would add reciprocity to their discussion.

Mr. Sensabaugh questioned if the Council would plan to audit the counties to assure compliance with the Council's Rules and Regulations. Ms. Trietley stated that post renewal audits were conducted on a random basis with individual licensees only.

Mr. Sensabaugh questioned if the Council planned to officially notify the county governments regarding the certification requirements for assessors. Mr. Maloney stated that the process of licensing assessors had been an ongoing process and the public was noticed properly when the Council held a public hearing to adopt the Rules and Regulations governing the assessors. Ms. McAtee stated that she would not mind sending out a basic notification stated that the application was now available online. Ms. Trietley asked Mr. Sensabaugh for suggestions on where Ms. McAtee should send her notification. Mr. Sensabaugh suggested sending them out to county executives in each county. Ms. McAtee stated that she would send out a notification.

#### **Upcoming Changes to Real Property Appraiser Qualifications**

The Council reviewed the upcoming changes to the Real Property Appraiser Qualification (AQB) Criteria. Ms. McAtee stated that the Council had addressed most of the topics in the recent Bill that passed legislation and that the draft Rules and Regulation proposal she prepared addressed the CE changes that required attention. The Council reviewed the draft proposal for Rules and Regulation changes and agreed with the changes as listed:

- Add the following to the list of topics in Rule 2.5.6
  - Topics on green buildings
  - Seller concessions
  - Developing opinions of real property value in appraisals (including personal property and/or business value)
- Add Rule 2.5.13 written, proctored examination is required for all qualifying education distance course offerings. The term written refers to an examination that might be written on paper or administered electronically on a computer workstation of other device.
- Add Rule 2.5.14 Appraisers may not receive credit for completion of the same continuing education course offering within an appraiser's continuing education cycle.
- Add a clarification to Rule 2.5.11 Beginning November 1, 2009, and thereafter, at least 14 hours per licensure period must be taken in a traditional classroom setting, with an instructor. If a licensee is licensed for at least 6 months but fewer

than 12 months of licensure, at least 7 hours per licensure period must be taken in a traditional classroom setting with an instructor.

Mr. Nickel pointed out that the AQB Criteria described some supervisory appraiser changes that the Council had not addressed. Mr. Nickel stated that the Council had addressed the disciplinary action part of the changes but had not addressed that supervisors had to be certified for a minimum of three years prior to becoming a supervisor. Ms. McAtee stated that the Council could add Rule 4.2.5 to state:

Rule 4.2.5 Effective January 1, 2014, a State-certified Supervisory Appraiser shall have been state certified for a minimum of three (3) years prior to being eligible to become a Supervisory Appraiser.

Mr. Maloney stated that he would draft a Rules and Regulations change proposal for the next meeting.

### **Proposed Rules and Regulations Changes**

Ms. McAtee stated that during the process of drafting the application for assessors it was discovered that Rules and Regulations existed for assessors that did not make administrative sense. She took the liberty of outlining the issues and suggested changes and presented them as followed:

- ~~Removing Rule 10.3.3 Approved applications. An approved application will be valid for 1 year from the date of approval. If an applicant does not pass the certification examination within this 1-year period, the applicant's application will be considered to have been abandoned. If the applicant wishes to take the examination after 1 year from the date of approval, a new application, along with the required fee, shall be reviewed on the basis of statutes and regulations in effect at the time the new application is received by the Board.~~
  - Note: The Council eliminated the need for a certification examination; this Regulation is no longer needed. Additionally, incomplete applications are kept by the Division for a period of one year and the applicant is contacted to determine if they wish to continue pursuing licensure.
- ~~Removing Rule 10.3.4 Disapproved applications. An applicant whose application has been disapproved by the Board will be notified in writing of the reasons for the disapproval and will have 1 year from the date of disapproval to correct the deficiencies or to file a request for reconsideration. A request for reconsideration shall give the reason for the applicant's request, shall be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider and may include a request for an informal interview with the Board. If a request for reconsideration is denied or an applicant is unable to correct the deficiencies which resulted in disapproval of the application within 1 year from the date of disapproval, a new application, along with the required fee, shall be submitted to the Board. An applicant's new application will be reviewed on the basis of statutes and regulations in effect at the time that the new application is received by the Board.~~
  - Note: Applications that are not approved by the Council are proposed to be denied (PTD). The applicant can accept that or request a hearing before the Council. If the applicant does not request a hearing the Council would vote to issue a final denial of the application at their next meeting.

- Clarifying Rule 10.5.1.3 Have successfully completed a minimum of 90 classroom qualifying education hours of courses of study in subjects covering the appraisal assessing profession, including coverage of the topics in Rule 10.6 (relating to required courses of study)
- ~~Removing Rule 10.5.3 Each certificate holder will be issued a wall certificate indicating initial certification and a registration packet, including a biennial renewal certificate and a wallet size certification card, both of which show the expiration date of the certificate.~~
  - Note: The Division only issues a license and wallet card at the time of licensure. Expiration dates are printed on both.
- Clarifying Rule 10.7.1 Except as provided in 10.7.2, a licensed assessor shall complete 14 hours of continuing education-including at least 7 hours on USPAP and at least 3 hours on the law, rules, and regulations of the Council-during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period. Seven hours may be completed via on-line, video or remote instruction; and seven hours must be completed in a class in a traditional classroom setting, with an instructor during every biennial renewal period.
- Adjusting Rule 10.7.2 A licensed assessor whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year will not be required to furnish proof of continuing education as a condition of biennial renewal of certification in that biennial renewal year. No continuing education is required for fewer than 6 12 months of licensure.
  - Note: The Council agreed to change the originally proposed 6 months of licensure to 12 months of licensure during the review of the proposal.
- Adjusting Rule 10.7.3.1 Attestation ~~may~~ must be completed electronically if since the renewal is accomplished online. ~~In the alternative, paper renewal documents that contain the attestation of completion may be submitted.~~
  - Note: All renewals are completed online, there are no paper renewals.
- Adjusting Rule 10.7.4.1 The Council will notify licensed assessors within sixty (60) days after January 31 renewal that they have been selected for audit.
- Adjusting Rule 10.7.4.2 Licensed assessors selected for random audit shall be required to submit verification within ~~ten (10)~~ thirty days of ~~receipt~~ the date of notification of selection for audit.
- Adjusting Rule 10.7.5 The Council shall review all documentation submitted by assessors pursuant to the continuing education audit. If the Council determines that the assessor has met the continuing education requirements, his or her license shall remain in effect. If the Council determines that the assessor has not met the continuing education requirements, the assessor shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. ~~The hearing will be conducted to determine if there are any extenuating circumstances justifying the noncompliance with the continuing education requirements.~~ Unjustified noncompliance with the continuing education requirements set forth in these rules and regulations shall constitute a violation of 24 Del.C. §4014(a)(5) and the assessor may be subject to one or more of the disciplinary sanctions set forth in 24 Del.C. §4016.

- Note: Removing a sentence of Rule 10.7.5 to mirror the changes recently made to the appraiser Rules and Regulations.
- ~~Removing Rule 10.8.7 Hardship. An applicant for license renewal may be granted an extension of time in which to complete continuing education hours upon a showing of hardship. Hardship may include, but is not limited to, disability, illness, extended absence from the country and exceptional family responsibilities. The Council may grant an extension, not to exceed two years, of time within which continuing education requirements must be completed. In cases of physical disability or illness, the Council reserves the right to require a letter from a physician attesting to the licensee's physical condition. No extension of time shall be granted unless the licensee submits a written request to the Council prior to the expiration of the license.~~
  - Note: Removing Rule 10.8.7 to mirror the changes recently made to the appraiser Rules and Regulations.

#### **Other Business before the Council (for discussion only)**

Mr. Wheeler stated that he did not understand the process of the Attorney General's (AG) office and felt that it would be beneficial for the Council as a whole to have a workshop during an upcoming meeting with a representative of the AG's office. The workshop would not be to criticize or critique but to gain an understanding of their process. Mr. Maloney stated that it was a fair question because he was not privy to know reasons for closed cases and that he clearly understood the frustration from the Council. Ms. Jenkins felt that Mr. Wheeler's suggestion was a great idea and further stated that it could be possible the AG's office does not understand the federal guidelines that included USPAP and the larger effects that bad appraiser work had on the public. Mr. Mandato added that perhaps the AG's office does not understand the ramifications of the complaints that are submitted and go through the process, during his time on the Council he had never seen this many complaints closed without a hearing or consent agreement.

Mr. Maloney stated that he would look into the Council's request to have an administrative prosecutor from the AG's office, that had been involved in at least one of the Council's cases, attend an upcoming meeting to have a beneficial discussion so that the Council could gain a better understanding of their process.

#### **Public Comment**

Earl Loomis questioned what it meant when the AG's office dismissed a case in the "interest of justice." Mr. Maloney stated that in his view it meant that there was not sufficient evidence to prosecute the case. Mr. Mandato stated that he looked up both "prosecutor discretion" and "interest of justice" and they were very similar to each other, the explanation that Mr. Maloney provided was how he understood the meaning as well.

Mr. Loomis stated that he had been hearing for quite a while throughout the profession how a large volume of cases have been closed by the AG's office. He questioned how the AG's office was enforcing the law and protecting the public if cases were being dropped with sufficient evidence. He stated that many appraisers in the profession are upset and frustrated with the volume of dropped cases.

Mr. Loomis stated that if the Council sent back a consent agreement to the AG's office with questions and then the AG dropped the case, it seemed to him that the AG's office dropped the case in resentment because the Council questioned their hard work in preparing the consent agreement. Mr. Loomis stated that there was a problem and it was not fair to the public when



someone signed a consent agreement, admitted guilt, and then had their case dismissed without disciplinary action.

Mr. Mandato stated that it was setting a bad precedence because appraisers in the field were getting the perception that they could break any USPAP requirement because nothing was being punished. Mr. Loomis stated that it was also discouraging appraisers from filing complaints because it took time to make the complaints and the growing consensus was that it was not worth submitting a complaint since nothing would ever come of it, no matter the infraction.

Ms. Trietley questioned if the AG's office had the discipline matrix. Mr. Mandato stated that the matrix was for Council use, all they need to know if a law or regulation was broken. The Council was getting the impression that complaints were being closed to just move them out of the AG's office.

Beverly Wilson addressed the Council and explained that she supported Mr. Loomis's comments. Ms. Wilson stated that the State of Maryland recently began providing enough monetary support to support the Council of Real Estate Appraisers in conducting business including disciplinary actions, which lead directly to the AG's office. Maryland had also enforced that they have a part time AG specifically assigned to them. Mr. Maloney stated that he served the Delaware Council as part of the AG unit that provides Council for the Boards. There was another AG unit that was responsible for prosecuting cases. Ms. Wilson stated that she understood and would email over information to Ms. Trietley, which the Council may find helpful. Ms. Wilson supported the Council's earlier discussion that supervisors should be investigated as well and that when complaints were filed on their trainees that the complaint should be filed against them as well since they were both responsible. Ms. Wilson stated that she appreciated the Council member's personal time and efforts for their profession.

#### **Executive Session**

None

#### **Next Meeting**

The next meeting is scheduled for September 17, 2013 at 9:30 a.m. in Conference Room A second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

#### **Adjournment**

Mr. Nickel made a motion, seconded by Mr. Levering, to adjourn the meeting. There being no further business before the Council, the meeting adjourned at 12:08 p.m. The motion carried unanimously.

Respectfully submitted,



Amanda McAtee  
Administrative Specialist II

*The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Council members and the public in supplementing their personal notes and recall for presentations.*

#### **4.12 CE Activities for Approval**

<b>Course Provider/Licensee</b>	<b>Course Title</b>	<b>Online/Classroom</b>	<b>Date</b>	<b>QE/CE Hou</b>
ACEI; dba: Calypso Continuing Education	Victorian Era Architecture for Real Estate Professionals	Online	Various	CE 3*
ACEI; dba: Calypso Continuing Education	Mold a Growing Concern	Online	Various	CE 3*
McKissock	General Appraiser Income Approach	Online	Various	QE 60*
McKissock	Live Webinar: DE Appraisal Laws and Regulations	Online	Various	CE 3*
Appraisal Institute	Litigation Skills for the Appraiser	Classroom	3/28/2013	CE 7*
PA Dept. of Transportation	Offer Preparation and Presentation	Classroom	01/31-02/02/2012	CE 22*
Appraisal Training Academy	7 Hour National USPAP Update 2012-2013	Classroom	03/19-03/20/2012	CE 7*
PA Dept. of Transportation	Appraisal for Federal Aid Highway Programs	Classroom	04/10-04/11/13	CE 12*
PA Dept. of Transportation	Appraisal Review for Federal Aid Highway Programs	Classroom	5/15/2012	CE 6*
ASFMRA	ASFMRA 84th Annual Convention Day 1	Classroom	11/14/2013	CE 6*
ASFMRA	ASFMRA 84th Annual Convention Day 2	Classroom	11/15/2013	CE 3*
ASFMRA	Rapid Fire Case Studies 2013	Classroom	11/13/2013	CE 6*

\* item was added to the amended agenda